

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10

11	DAVID RIBOT, PERRY HALL,	)	Case No. CV 11-02404 DDP (FMOx)
	JR., DEBORAH MILLS, ANTHONY	)	
12	BUTLER, JENNIFER BUTLER,	)	<b>ORDER RE DEFENDANTS' MOTION TO</b>
	JONATHAN LUNA and LOIS	)	<b>DENY CERTIFICATION AS TO 21ST</b>
13	BARNES, individually, and on	)	<b>CENTURY CLASS, PLAINTIFFS' MOTION</b>
	behalf of all others	)	<b>FOR RELIEF UNDER RULES 26 AND 37,</b>
14	situated,	)	<b>AND PLAINTIFFS' MOTION TO MODIFY</b>
		)	<b>SCHEDULING ORDER</b>
15	Plaintiffs,	)	
		)	[Dkt. No. 268]
16	v.	)	
		)	
17	FARMERS INSURANCE GROUP,	)	
	FARMERS INSURANCE EXCHANGE,	)	
18	21st CENTURY INSURANCE	)	
	COMPANY et al.,	)	
19		)	
	Defendants.	)	
20		)	

21 Before the court is Defendants Farmers Services, LLC, Farmers  
22 Insurance Exchange, and 21st Century Insurance Company  
23 (collectively, "Defendants")'s Motion to Deny Certification as to  
24 21st Century Class. (Dkt. No. 256.) Also before the court is  
25 Plaintiffs' Motion for Relief under Rules 26 and 37 (Dkt. No. 260)  
26 and Plaintiffs' Motion to Modify Scheduling Order (Dkt. No. 268).  
27 Each motion has been fully briefed. Having considered the parties'  
28 submissions, the court now adopts the following order.

1 On July 17, 2013, this court issued an order granting  
2 Plaintiffs' motion for class certification in part. (Dkt. No. 222.)  
3 The Rule 23 class certified in that order did not include employees  
4 of 21st Century Insurance Company ("21st Century"). (Id. at 37-38.)  
5 On August 22, 2013, Plaintiffs moved to modify the class definition  
6 to include 21st Century employees. (Dkt. No. 240.) Defendants  
7 opposed the motion on the ground that they had recently discovered  
8 that the only class representatives formerly employed by 21st  
9 Century, Jennifer Butler and Anthony Butler, signed agreements  
10 releasing all claims against 21st Century and Farmers Insurance  
11 Group relating to their employment in exchange for severance  
12 packages before filing this action. (Dkt. No. 244.) Plaintiffs did  
13 not respond substantively to Defendants' arguments vis-a-vis the  
14 releases in their papers or at a hearing held on September 23,  
15 2013.

16 On September 24, 2013, this court issued an Order stating: "In  
17 light of Defendants' objections [regarding the releases], the court  
18 will take no action relative to Plaintiffs' request to add 21st  
19 Century, pending Plaintiffs' response on the waiver issue. The  
20 parties are ordered to meet and confer to ensure that Plaintiffs  
21 have adequate information on which to base their response." (Dkt.  
22 No. 248 at 6.)

23 On February 14, 2014, Defendants filed the instant Motion to  
24 Deny Certification as to 21st Century Class. (Dkt. No. 256.)  
25 Defendants assert that certification should be denied on the  
26 grounds that Jennifer Butler and Anthony Butler lack standing to  
27 pursue their claims and do not satisfy the requirements of  
28

1 typicality and adequacy for class representatives under Rule 23(a)  
2 as a result of the Butlers' signing of the releases.

3 On February 24, 2014, Plaintiffs filed the instant Motion for  
4 Relief Under Rules 26 and 37.<sup>1</sup> (Dkt. No. 260.) Plaintiffs contend  
5 that the court should not consider the releases on various grounds  
6 relating to the timeliness and completeness of Defendants'  
7 discovery productions.

8 Having considered the parties' arguments, the court concludes  
9 that the matter of the releases is best addressed on a motion for  
10 summary judgment, prior to resolving the question of class  
11 certification for the 21st Century employees. Accordingly,  
12 Defendants are ordered to file a motion for summary judgment by  
13 April 29, 2014. Plaintiff's Opposition must be filed by May 6,  
14 2014. Defendants must file any Reply by May 13, 2014. The Motion  
15 shall be calendared for Monday, June 2, 2014 at 10:00 am.

16 As to Plaintiffs' Motion to Modify Scheduling Order (Dkt. No.  
17 268), the court grants in part and denies in part the Motion as  
18 follows:

19 (1) Fact discovery is closed.

20 (2) All other dates set in the court's August 8, 2013  
21 Scheduling Order (Dkt. No. 228) are vacated. **A status conference**  
22 **regarding trial dates is set for June 30, 2014 at 2:30 p.m.** The  
23 parties are ordered to meet and confer in advance of the status  
24

---

25 <sup>1</sup> The court notes that Plaintiffs' Motion was procedurally  
26 improper because Plaintiffs failed to meet and confer with  
27 Defendants prior to its filing as required by Local Rule 37-1. The  
28 Court expects the parties to meet and confer as required by the  
Local Rules and to use their best efforts to resolve any and all  
differences. Failure to comply with this requirement will not be  
tolerated going forward.

1 conference to develop proposed dates for a modified Scheduling  
2 Order.

3 With respect to class lists, the court's December 2, 2014  
4 Order to Extend Deadline to Produce Class Lists (Dkt. No. 225) is  
5 modified as follows: Defendants shall produce class lists for all  
6 class members, excluding putative class members from the Woodland  
7 Hills 21st Century facility, by May 7, 2014.

8 With respect to class notice, once the court has ruled on the  
9 forthcoming motion for summary judgment and the pending motions  
10 concerning the inclusion of the Woodland Hills 21st Century  
11 employees among the certified classes, the parties shall submit a  
12 revised proposed Notice of Class Action and Collective Action for  
13 the court's approval.

14  
15 IT IS SO ORDERED.

16 Dated: April 14, 2014

  
DEAN D. PREGERSON  
United States District Judge